
MARINE AMENDMENT ACT 1989

No. 20 of 1989

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MARINE AMENDMENT ACT 1989

No. 20 of 1989

AN ACT to amend the Marine Act 1976.

[Royal Assent 18 April 1989]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Marine Amendment Act* Short title. 1989.

2—This Act shall commence on the day on which it receives Commencement. the Royal assent.

3—In this Act, the *Marine Act 1976** is referred to as the Principal Act. Principal Act.

4—Section 22 of the Principal Act is amended by omitting Amendment of section 22 of Principal Act (Qualifications of electors). “30th June” and substituting “31st December”.

5—Section 47 of the Principal Act is amended as follows:— Amendment of section 47 of Principal Act (Vacation of office of warden).

(a) by omitting paragraph (a) of subsection (2);

* No. 18 of 1976. For this Act, as amended to 1st July 1987, see the Continuing Reprint of Statutes. Subsequently amended by No. 44 of 1987.

(b) by inserting after subsection (2) the following subsection:—

(2A) Where a board has entered into a contract with any corporation, association, firm, or business of which a warden is a member or in which a warden has any direct or indirect pecuniary interest, the warden shall not be disqualified from continuing to hold the office of warden if the terms and conditions of the contract are the same as the terms and conditions which would be available to other persons.

Amendment of section 65 of Principal Act (General powers).

6—Section 65 (1) of the Principal Act is amended by inserting the following paragraph after paragraph (m):—

(ma) to charge fees for inspections carried out by the board, being inspections of waters to which an application for a permit, referred to in section 15 (2) of the *Fisheries Act 1959*, relates;

Substitution of sections 94 and 95 of Principal Act.

7—Sections 94 and 95 of the Principal Act are repealed and the following sections are substituted:—

94—(1) A board may direct and control—

- (a) the time and manner in which a vessel may enter or leave a port within its jurisdiction;
- (b) the movement of a vessel within such a port;
- (c) the position where, and the manner in which, a vessel may anchor within such a port;
- (d) the time and manner in which cargo, stores, fuel, water, or ballast may be taken in by, or discharged from, a vessel within such a port;
- (e) the embarking or disembarking of passengers on or from a vessel within such a port;
- (f) the mooring or unmooring of a vessel within such a port; and
- (g) the removal of a vessel within such a port from a position in the port to another position in the port or to a position outside the port.

(2) If there is not on board a vessel any person to whom a direction under subsection (1) (f) or (g) may be given requiring the mooring, unmooring, or removal of the vessel or, where the board gives such a direction and the direction is not complied with, the board may cause the vessel to be moored, unmoored, or removed in accordance with its direction.

Power of Board to give directions, &c., on certain matters in respect of vessels.

(3) Where a board causes a vessel to be moored, unmoored, or removed in accordance with its direction under subsection (1) (f) or (g), both the owner and the master of the vessel shall be jointly and severally liable for the expenses incurred by the board in causing the vessel to be so moored, unmoored, or removed and the board may recover the expenses incurred by it in a court of competent jurisdiction as a debt due to it.

95—(1) The master of, and every person employed on, a vessel within a port shall obey the orders and directions, not being directions referred to in subsection (2), of the board having jurisdiction over the port.

Master of vessel, &c., to obey orders and directions of board.

(2) Where any directions of a board given under section 94 (1) (f) or (g) are not complied with—

- (a) both the owner and the master of the vessel in respect of which the directions were given are guilty of an offence and are liable on summary conviction to a fine not exceeding 500 penalty units for the first day on which the directions are not complied with and a fine not exceeding 100 penalty units for each subsequent day on which the directions are not complied with; and
- (b) both the owner and the master of the vessel—
 - (i) are liable to pay the board 10 times the normal tonnage rates payable in respect of the vessel; and
 - (ii) shall indemnify the board against, and make good, any loss of revenue suffered by the board as a result of the non-compliance with its directions.

8—Section 198 of the Principal Act is amended by inserting after subsection (1A) the following subsection:—

Amendment of section 198 of Principal Act (By-laws).

(1B) Any by-laws made by a board under this section—

- (a) may provide for an appeal to a magistrate against the cancellation or suspension by the board of a speed boat driver's licence or a provisional speed boat driver's licence and the manner in which such an appeal may be instituted, heard, and determined; and
- (b) may provide that the decision of a magistrate in respect of an appeal referred to in paragraph (a) shall be final.

Amendment of
section 200 of
Principal Act
(Regulations).

9—Section 200 of the Principal Act is amended as follows:—

(a) by omitting from paragraph (g) of subsection (1) “use, in waters not within the jurisdiction of a board of vessels (other than rowing boats that are used solely for pleasure), the certificating of those vessels,” and substituting “use—

(i) in waters not within the jurisdiction of a board, of vessels, other than rowing boats that are used solely for pleasure; and

(ii) in any prescribed areas of waters not within the jurisdiction of a board, of rowing boats that are used solely for pleasure,

the certificating of vessels, other than rowing boats that are used solely for pleasure,”;

(b) by inserting after paragraph (g) of subsection (1) the following paragraph:—

(ga) providing for an appeal to a magistrate against the cancellation or suspension by the Authority of a speed boat driver’s licence or a provisional speed boat driver’s licence and the manner in which such an appeal may be instituted, heard, and determined;

(c) by inserting after subsection (1) the following subsection:—

(1A) Regulations made under subsection (1) (ga) may provide that the decision of a magistrate in respect of an appeal against the cancellation or suspension by the Authority of a speed boat driver’s licence or a provisional speed boat driver’s licence shall be final.